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Subpart D—Loan Administration

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AUTHORITY: Sec. 211(e) of the Department of Energy (DOE) Organization Act, Pub. L. 95-91, Title II, as amended by Pub. L. 95-619, Title VI, sec. 641, Nov. 9, 1978, 92 Stat. 3284 (42 U.S.C. 7141).

SOURCE: 46 FR 44689, Sept. 4, 1981, unless otherwise noted.

Subpart A—General

§ 800.001 Purpose.

The purpose of this regulation is to set forth policies and procedures for the award and administration of loans to minority business enterprises. The loans are to assist such enterprises in participating fully in research, development, demonstration and contract activities of the Department of Energy. The loans are to defray a percentage of the cost of obtaining DOE contracts and other agreements, including procurements, cooperative agreements, grants, loans and loan guarantees; of obtaining subcontracts with DOE operating contractors; and of obtaining contracts with first-tier subcontractors of DOE operating contractors in furtherance of the research, development, demonstration or other contract activities of DOE. Issuance of loans under this regulation is limited to the extent funds are provided in advance in appropriation acts. This regulation implements the authority for such loans in section 211(e) of the Department of Energy (DOE) Organization Act, Public Law 95-619, title VI, section 641, November 9, 1978, 92 Stat. 3284 (42 U.S.C.A. 7141).

[48 FR 17574, Apr. 25, 1983]

§ 800.002 Program management.

Program management responsibility for financial assistance awarded under this regulation has been assigned to the Office of Minority Economic Impact.

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§ 800.003 Definitions.

For the purpose of this regulation:

Act means the DOE Organization Act, Public Law 95-91, title II, as amended by the National Energy Conservation Policy Act, Public Law 95-619, title VI, section 641.

Applicant means a minority business enterprise which is seeking a loan under this regulation.

Application Approving Official means the Director of the Office of Minority Economic Impact.

Application Evaluation Panel (also referred to as the *Panel*) means a team of Federal employees appointed by the Application Approving Official to evaluate loan applications and make approval or disapproval recommendations regarding such applications.

Borrower means an applicant who enters into a loan agreement with DOE.

Contracting Officer means the DOE official warranted and authorized to contractually bind the Department of Energy and execute written agreements that are binding on the Department.

Costs of a bid or proposal means the cost of preparing, submitting and supporting a bid or proposal, whether solicited or not, for a DOE contract or other agreement such as a procurement contract, grant, cooperative agreement, loan or loan guarantee; or a subcontract with a DOE operating contractor; or a contract with a first-tier subcontractor of a DOE operating contractor in furtherance of the research, development, demonstration or other contract activities of DOE.

Default means the actual failure by the borrower to make payment of principal or interest in accordance with the terms and conditions of a loan issued under this regulation, or the failure of the borrower to meet any other requirement specified as a default condition in the loan agreement.

Director means the Director of the Office of Minority Economic Impact (OMEI).

Loan, in reference to a loan made pursuant to the regulation, means a transaction in which a contractual instrument ("loan agreement") is executed between the United States, as lender, acting through the Secretary of Energy, and a borrower. The instrument must obligate the United States

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to provide the borrower with a specified amount(s) of United States funds for a specified period of time and must obligate the borrower to use the moneys to bid for and attempt to obtain contracts and other agreements relating to DOE research, development, demonstration and contract activities, and to repay the moneys at a specified time at an agreed rate of interest. The words 'loan', 'loan agreement' and 'transaction' include (where the context does not require otherwise) the terms and conditions of related documents, such as the borrower's note or bond or other evidence of, or security for, the borrower's indebtedness.

Minority Business Enterprise means a firm including a sole proprietorship, corporation, association, or partnership which is at least 50 percent owned or controlled by a member of a minority or group of members of a minority. For the purpose of this definition, 'control' means direct or indirect possession of the power to direct, or cause the direction of, management and policies, whether through the ownership of voting securities, by contract or otherwise. An individual who is a citizen of the United States and who is a Negro, Puerto Rican, American Indian, Eskimo, Oriental, or Aleut, or is a Spanish speaking individual of Spanish descent, is a member of a "minority" as used in this regulation.

Operating Contractors means contractors under contracts having one of the following purposes, in accordance with the provisions of § 9.50.001(a)(1) of the DOE procurement regulations (title 41 CFR part 9-50):

(a) DOE prime contracts for the management of Federal Government-owned laboratories, production plants, and research facilities located on Federal Government-owned or Federal Government-leased sites, where the programs being conducted are considered of a long-term, continuing nature; or

(b) DOE prime contracts for the operation of Federal Government-owned facilities located on contractor-owned or leased sites where the programs being conducted are of a long-term, continuing nature. An example of this category would be those contracts with universities for the operation of Federal Government-owned facilities, for

the purpose of conducting long-term basic research programs.

(c) Other contracts performed on sites owned by the Federal Government when so designated by the appropriate procurement official.

Secretary means the Secretary of the Department of Energy or his delegate.

[46 FR 44689, Sept. 4, 1981, as amended at 48 FR 17574, Apr. 25, 1983]

§ 800.004 Eligibility.

In order to be eligible for a loan, an applicant must be a minority business enterprise as defined in § 800.003.

Subpart B—Loan Solicitation, Application and Review

§ 800.100 Solicitation of applications.

The Secretary will periodically issue an announcement soliciting applications under this regulation. The announcement will be published in the *FEDERAL REGISTER*, synopsised in the *Commerce Business Daily*, and circulated to minority trade associations and organizations and to the Minority Business Development Agency and Small Business Administration. The announcement will indicate funds availability, eligibility requirements, application instructions, interest rates, maturities and other key loan terms and any applicable restrictions. In such solicitations, DOE shall further indicate that, in the case of applications for loans relating to bids or proposals for contracts with first-tier subcontractors of DOE operating contractors, information necessary to substantiate such applications may be unavailable to DOE from such subcontractors. If the substantiating information is not made available to DOE in a timely manner, the application may be rejected.

[46 FR 44689, Sept. 4, 1981, as amended at 48 FR 17574, Apr. 25, 1983]

§ 800.101 Application requirements.

(a) Applications for loans shall be filed, one original and three copies with: Department of Energy, Washington, DC 20585, Attention: Announcement No. DE-PS60-MI.

(b) An application for a loan under this regulation must include the following information. Items described in